

1 Parker Saunders of Bertling & Clausen, L.L.P.

2 The parties conferred on November 17, 2015 and hereby submit the
3 following report of the planning meeting:

4 **(A) STATEMENT OF THE CASE**

5 Plaintiff filed her First Amended Complaint, including a demand for
6 jury trial, on October 1, 2015. The First Amended Complaint alleges six claims
7 for relief: (1) 42 U.S.C. §1983 (3 counts); (2) Wrongful Death- C.C.P. §§ 377.60,
8 377.20; (3) Americans with Disabilities Act Violation; (4) California Government
9 Code § 845.6; (5) negligence; and (6) medical malpractice.

10 **(1) Plaintiff's Contentions.**

11 This case arises from the suicide of 31 year old Edgar Solorzano on May
12 25, 2015 while incarcerated in the Ventura County Jail ("VCJ"). This action is
13 brought by Mr. Solorzano's natural mother Guadalupe Raya. Mr. Solorzano had
14 a prior suicide attempt, also by hanging, while previously incarcerated in VCJ in
15 or about 2007.

16 Mr. Solorzano was initially arrested for releasing 6 canaries owned by
17 neighbor Eva Tamayo and valued at \$150.00. After being released on that charge,
18 Eva Tamayo then accused Edgar Solorzano of threatening her life. Mr. Solorzano
19 was returned to custody on the terrorist threat charge on October 3, 2015. There is
20 substantial evidence that neither event occurred and that alleged victim Eva
21 Tamayo has severe psychiatric issues. During booking, it was noted that Mr.
22 Solorzano was acting bizarrely. Jail records dated October 6, 2015 document
23 VCJ's knowledge of the prior suicide attempt.

24 On March 10, 2015, Mr. Solorzano filled out a medical care request form
25 asking to see a psychologist. No psychologist was provided. Throughout March
26 and April 2015, Mr. Solorzano complained of mood swings, depression and
27 anxiety. On April 16, 2015, Mr. Solorzano made suicidal statements indicating
28 that he was delusional, hallucinating and that he was going to kill himself. Mr.

1 Solorzano told nursing staff that he tried to hang himself that morning, that he had
2 a blade ready and was going to kill himself that night. Mr. Solorzano was released
3 from a safety cell the following day. In late April 2015, pursuant to Penal Code §
4 1368, Mr. Solorzano was found incompetent and ordered sent to Patton State
5 Hospital.

6 On May 19, 2015, there was a suicidal quad call concerning Mr. Solorzano.
7 He stated he was hallucinating and wanted to go to medical. On May 25, 2015
8 Edgar Solorzano hung himself in the Ventura County Jail using a blade and bed
9 sheet, just as he had stated he was going to.

10 Defendants knew, had reason to know, or should have known that Mr.
11 Solorzano was unable to care for himself and required ongoing medical care and
12 treatment, supervision and reasonable monitoring and security. Defendants failed
13 to provide reasonable accommodations for Mr. Solorzano's mental illness, failed
14 to provide him access to medical/mental care and treatment, failed to provide
15 reasonable monitoring and security, and acted with deliberate disregard for Mr.
16 Solorzano's indicated treatment and security.

17 Sheriff Dean failed to properly train, supervise and monitor his employees
18 and agents including CFMG, their doctors and staff. The unknown officers,
19 deputies, medical personal, supervisors and others acted with indifference and
20 reckless and deliberate disregard and/ or negligence in their official duties with
21 regard to their supervision of Mr. Solorzano and the security they provided or
22 failed to provide. These unknown individuals acted with indifference and reckless
23 and deliberate disregard and/ or were negligent toward Mr. Solorzano in their
24 official duties by failing to provide him access and delivery for care and treatment
25 for his serious but treatable medical and mental health condition.

26 The individuals employed by defendants were negligently hired, trained,
27 retained and supervised by Sheriff Dean, VCJ employees and personnel, CFMG,
28 CFMG employees and personnel as well as their supervisors. These individuals

1 had a propensity to use dangerous tactics, unnecessary force, inappropriately
2 dealing with individuals suffering from mental illness, and failing to provide
3 appropriate care and treatment for those suffering mental health conditions.

4 **(2) Defendants' Contentions (CFMG, County of Ventura and Sheriff**
5 **Geoff Dean).**

6 No members of the Ventura County Sheriff's Department knew of and
7 disregarded any excessive risk to Plaintiff's health or safety at any time while he
8 was an inmate at the Ventura County Jail. Furthermore, Ventura County Sheriff
9 Geoff Dean or any members of the Ventura County Sheriff's Department were
10 not subjectively and/or objectively deliberately indifferent to the medical/mental
11 health needs of Edgar Solorzano and therefore not responsible for his suicide. At
12 no time did Ventura County Sheriff Geoff Dean have any individual involvement
13 in the housing status of inmate Edgar Solorzano during his incarceration at the
14 Ventura County Jail. In addition, state law theories of recovery are precluded by
15 provisions of the California Government Code.

16 Finally, no contracted medical staff were deliberately indifferent to Edgar
17 Solorzano's medical or mental health needs.

18 CFMG contends it and its staff appropriately cared for, treated and
19 managed Mr. Solorzano's medical and mental health needs. CFMG contends it
20 and its staff conducted thorough and appropriate examinations of Mr. Solorzano
21 and properly and timely afforded Mr. Solorzano medication and treatment for his
22 medical and mental health care needs.

23 CFMG contends neither it nor its staff was deliberately indifferent to Mr.
24 Solorzano's medical or mental health care needs. CFMG further contends at all
25 times it and its staff met the standard of care in its treatment of Mr. Solorzano and
26 was not the cause of any of his or plaintiff's alleged injuries or claimed damages.

27 **(B) SUBJECT MATTER JURISDICTION**

28 Subject Matter Jurisdiction for this action is conferred upon this Court

1 pursuant to 28 U.S.C. §§1331 (federal question) and 1343(3) (civil rights) as the
2 cause of action arises under 42 U.S.C. §1983.

3 **(C) LEGAL ISSUES**

4 **(1) Plaintiff's Position**

5 1. The nature and severity of Edgar Solorzano's medical needs and
6 psychiatric condition;

7 2. The extent to which Edgar Solorzano's medical needs and
8 psychiatric condition were known and/or apparent to defendants;

9 3. Whether defendants were deliberately indifferent to Edgar
10 Solorzano's serious medical needs;

11 4. Whether defendants, including medical personnel, were negligent in
12 their care and treatment of Edgar Solorzano;

13 5. Whether defendants breached statutory and/or legal duties of care to
14 Edgar Solorzano and/or Guadalupe Raya;

15 6. Whether defendants properly monitored and supervised Edgar
16 Solorzano while in custody;

17 7. Whether defendants took well-established jail suicide prevention
18 precautions for an inmate with a prior history of suicide attempts;

19 8. Whether defendants' placement of Edgar Solorzano in segregation
20 caused or contributed to his suicide;

21 9. Whether defendants' policies and procedures concerning the
22 segregation of mentally ill inmates complies with constitutional requirements;

23 10. Whether any wrongful conduct by defendants was the cause in fact
24 of Edgar Solorzano's death;

25 11. Damages sustained;

26 12. Other matters raised in the First Amended Complaint and Answers
27 thereto. Counsel will meet and confer per Court Rules to narrow issues where
28 possible.

1 **(2) Defendants' Position**

2 (1) If the County of Ventura and Ventura County Sheriff Geoff Dean did
3 not commit any federal constitutional violation against plaintiff's decedent at any
4 time, the plaintiff's federal causes of action would therefore be barred;

5 (2) Whether the County Defendants, CFMG and CFMG employees were
6 subjectively deliberately indifferent to Plaintiff's serious medical needs. *See,*
7 *Estelle v. Gamble*, 429 U.S. 97, 104 (1976);

8 (3) Whether any individual Defendants are entitled to qualified
9 immunity;

10 (4) Whether the absence of any objective deliberate indifference on the
11 part of County defendants precludes the plaintiff's cause of action for alleged
12 violations of the Americans with Disabilities Act;

13 (5) What is the standard for the provision of medical and mental health
14 care to inmates;

15 (6) Whether Defendants are liable for acts of discretion;

16 (7) Whether the presence or lack of a policy or procedure caused a
17 violation of any constitutional rights;

18 (8) Whether Defendants breached the applicable standard of care in
19 their medical and mental health care and treatment of decedent;

20 (9) Whether plaintiff's alleged injuries or claimed damages (or any
21 portion) were proximately or legally caused by the alleged negligence or
22 claimed violation of civil rights on the part of each of the defendants.

23 **(D) PARTIES, EVIDENCE, AND LIKELIHOOD OF ADDITIONAL**
24 **PARTIES OR AMENDED PLEADINGS**

25 The current parties are Plaintiff Guadalupe Raya and Defendants
26 County of Ventura, Ventura County Sheriff Geoff Dean, California Forensic
27 Medical Group, Geronimo Solorzano, and Does 1-100. There is a substantial
28 likelihood that plaintiff will add individual defendants upon the completion of

1 discovery. Once Plaintiff discovers the identity of these Does, Plaintiff will seek
2 leave to file an amended complaint naming these individuals.

3 **(E) DAMAGES**

4 **(1) Plaintiff's Position.**

5 Plaintiff anticipates using an economist to calculate damages. Generally,
6 plaintiff is seeking damages for the following categories:

7 Economic Damages:

8 1. The financial support if any, if decedent would have contribute tot he
9 family during the life expectancy that decedent had before his death or the life
10 expectancy of plaintiff whichever is shorter.

11 2. Loss of gifts or benefits that plaintiff would have expected to receive.

12 3. Funeral and burial expenses. And,

13 4. The reasonable value of household services that decedent would have
14 provided.

15 Non- Economic Damages:

16 1. The loss of decedents love, companionship, comfort, care, assistance,
17 protection, affection, society, moral support.

18 2. Punitive Damages.

19 Plaintiff has sought \$4 million dollars pursuant to the First Amended
20 Complaint.

21 **(2) Defendants' Position.**

22 Discovery regarding damages has yet to commence.

23 **(F) INSURANCE**

24 CFMG is insured by Iron Health. Coverage analysis is pending.

25 The County of Ventura is self-insured with additional excess coverage.

26 **(G) MOTIONS**

27 Plaintiff does not currently contemplate any pre-trial motion filings other
28 than motions *in limine* and motions to compel if deemed necessary.

CFMG anticipates filing a motion for summary judgment or partial summary judgment and possible motions *in limine*. Depending on the nature of discovery, CFMG may also seek a protective order related to confidential information, which may be procured by stipulation.

Ventura County Defendants anticipate a motion for summary judgment, or alternatively, summary adjudication. Should Plaintiff not be amenable to dismiss Sheriff Dean, Defendants will likely file a motion for judgment on the pleadings, since Sheriff Geoff Dean is an unnecessary supernumerary defendant because the entity defendant is named, *Kentucky v. Graham*, 473 U.S. 159, 165-66(1985) and *Rosa R. v. Connelly*, 889 F.2d 435, 437 (2nd Cir. 1989). *Luke v. Abbott*. 954 F. Supp. 202 (C.D. Cal, 1997) (official capacity lawsuits against individual defendants are redundant where the entity employer has also been sued.) Additionally, Defendants anticipate filing motions in limine and a motion to bifurcate *Monell* proceedings in the interests of judicial and party economy. Ventura County Defendants may also file a motion against Plaintiff to recover their costs and attorney's fees pursuant to 28 U.S.C. Section 1927 and/or Fed.R.Civ.Proc. Rule 11.

(H) MANUAL FOR COMPLEX LITIGATION

None of the procedures from the Manual of Complex Litigation should be utilized.

(I) STATUS OF DISCOVERY

The parties will have mutually provided their early disclosures within the 14 days permitted by FRCP 26(a)(1)(c) and prior to the scheduling conference.

(J) DISCOVERY PLAN

No changes in the Rule 26(a) disclosure should be made. It will not be necessary to conduct discovery in phases or to otherwise limit discovery. The parties have agreed to engage in written discovery. The written discovery will likely consist of interrogatories, requests for admission and requests for

1 identification and production of documents. Discovery will promptly begin
 2 concerning the facts of this case and include the care and treatment of decedent.
 3 Discovery will be conducted regarding damages and require expert opinions and
 4 deposition testimony. The parties will also conduct depositions of the parties and
 5 witnesses. It is anticipated that depositions will commence in early February of
 6 2016. Should there be a need for the taking of more than 10 depositions per side
 7 the parties have agreed to meet and confer on that issue to determine whether this
 8 matter can be properly addressed via stipulation.

9 Ventura County Defendants anticipate that many privacy, security and
 10 confidentiality concerns surrounding the Ventura County Jail, the resulting
 11 criminal investigation, and other anticipated requests can properly be addressed
 12 via a stipulated protective order.

13 **Plaintiff's Percipient Witnesses:**

14 Plaintiff contends the percipient witnesses are:

- 15 1. Guadalupe Raya;
- 16 2. Sonia Lopez;
- 17 3. Sheriff Geoff Dean;
- 18 4. Ventura County Sheriff's Deputies and/or employees who
 19 investigated Edgar Solorzano's suicide;
- 20 5. All Ventura County Sheriff's Deputies and/or employees who were
 21 responsible for the booking, care, treatment, monitoring and
 22 incarceration of Edgar Solorzano;
- 23 6. All Ventura County Sheriff's Deputies and/or employees who were
 24 involved with Edgar Solorzano on May 14, 2015 at which time he
 25 was dragged by multiple deputies;
- 26 7. All Ventura County Sheriff's Deputies and/or employees responsible
 27 for placing Edgar Solorzano in segregation;
- 28 8. All Ventura County Sheriff's Deputies and/or employees who

1 responded to Edgar Solorzano's suicide on May 25, 2015;

2 9. All California Forensic Medical Group doctors, nurses, staff and/or
3 employees who examined, evaluated, rendered care, treated,
4 prescribed medication or otherwise handled or dealt with Edgar
5 Solorzano while incarcerated at Ventura County Jail;

6 10. All California Forensic Medical Group doctors, nurses, staff and/or
7 employees responsible for California Forensic Medical Group
8 policies and procedures;

9 11. All Ventura County Sheriff's Deputies and/or employees responsible
10 for policies and procedures including, but not limited to, jail suicide
11 prevention policies and guidelines.

12 12. Nancy Aronson;

13 13. Katherine M. Davis Ph.D.;

14 14. Erica Rocha;

15 15. Norma Mares;

16 16. Geronimo Solorzano;

17 17. Defendants' Experts.

18 **Plaintiff's Key Documents:**

19 1. Ventura County Sheriff Major Crimes investigative materials,
20 including investigative reports, recordings, photographs, and any witness
21 interviews surrounding the suicide incident.

22 2. Plaintiff's jail records;

23 3. Plaintiff's employment records, if any;

24 4. Plaintiff's medical records;

25 5. Autopsy Report;

26 6. Defendants' written policies and procedures;

27 7. Audio and Video recordings of decedent;

28

1 **Defendants' Percipient Witnesses:**

- 2 1. All persons identified by Plaintiff's operative pleading;
3 2. The persons whose identities appear on all documents that will be
4 produced by Plaintiffs and Defendants;

5 **Defendants' Key Documents:**

6 1. Ventura County Sheriff Major Crimes investigative materials,
7 including investigative reports, recordings, photographs, and any witness
8 interviews surrounding the suicide incident. Based upon the sensitive nature of
9 jail security and confidential nature of various documents surrounding the
10 incident and resulting criminal investigation, County Defendants will seek a
11 protective order prior to disclosure of said materials. During the early meeting of
12 counsel this issue was discussed and the parties have preliminarily agreed to the
13 use of a stipulated protective order which will be filed with the Magistrate.

14 2. Plaintiff's jail records;

15 3. Plaintiff's criminal court records;

16 4. Plaintiff's employment records, if any;

17 5. Plaintiff's medical and mental health records;

18 In addition to the above discovery, defendants will also seek the deposition
19 of plaintiff and other family relatives, any preceding healthcare providers, and
20 plaintiff's witnesses identified through Rule 26 disclosures and in discovery.
21 Defendants will also seek the deposition of plaintiff's designated experts and
22 rebuttal experts. Defendants expect to call expert witnesses including but not
23 limited to individuals to testify concerning jail facilities, the standard of care,
24 correctional medicine and causation and damages. Defendants anticipate
25 depositions of Plaintiff, Plaintiff's family members, and potential inmates at
26 Ventura County Jail prior to or at the time of the incident.

27 As indicated above, Ventura County Defendants anticipate that many
28 privacy, security and confidentiality concerns surrounding the Ventura County

1 Jail, the resulting criminal investigation, and other anticipated requests can
2 properly be addressed via a stipulated protective order.

3 **(K) DISCOVERY CUT-OFF**

4 The parties respectfully propose that the discovery cut-off date in this
5 matter be ***December 16, 2016***. This cut-off date is the final day for the completion
6 of discovery, including resolution of all discovery motions.

7 **(L) EXPERT DISCOVERY**

8 The parties respectfully propose an initial Rule 26 expert witness disclosure
9 deadline of ***January 10, 2017***, and Rule 26 Supplemental and/or rebuttal expert
10 witness report deadline of ***January 26, 2017***.

11 **(M) DISPOSITIVE MOTIONS**

12 The parties anticipate filing motions *in limine* to limit expert testimony and
13 to exclude prejudicial, irrelevant, or otherwise inadmissible evidence. Defendants
14 anticipate a motion for summary judgment, or alternatively, summary
15 adjudication. The parties respectfully propose the deadline for filing summary
16 judgment, or alternatively, summary adjudication motions, and any motions *in*
17 *limine* of ***February 6, 2017***.

18 **(N) SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION (ADR)**

19 At the early meeting of counsel, plaintiff and defense counsel conducted a
20 preliminary exploration of settlement potential including an estimated range of
21 damages. Once the parties engage in the initial discovery phase, exploration of
22 settlement potential may be more realistic.

23 In accordance with Central District Local Rule 16-15.4, and this court's
24 order, the parties select Settlement Procedure No. 2. The parties have agreed to a
25 completion deadline on the mandatory settlement conference of ***July 1, 2016***.

26 The parties have likewise discussed the use of a private mediator if necessary and
27 will seek the court's approval if and when that issue arises.

1 **(O) TRIAL ESTIMATE**

2 The parties have demanded a jury trial. The parties contemplate a 10-day
3 trial. Because of the current trial schedule for counsel for defendants, the parties
4 respectfully request a Final Pre-Trial Conference on *March 6, 2017*, and a trial
5 date of *April 3, 2017*.

6 **(P) TRIAL COUNSEL**

7 Plaintiff will be represented at trial by her counsel of record, Brian A.
8 Osborne of the Osborne Law Firm.

9 Defendant CFMG will be represented at trial by its counsel of record, Peter
10 G. Bertling, Bertling & Clausen, LLP.

11 Paul B. Beach and James S. Eicher, Jr., of Lawrence Beach Allen & Choi,
12 PC will represent the Ventura County Defendants at trial.

13 **(Q) INDEPENDENT EXPERT OR MASTER**

14 The appointment of an independent expert or master is currently
15 unnecessary in this litigation.

16 **(R) TIMETABLE**

17 Please see Sections K through O to this report.

18 //

19 //

20 //

21 //

22

23

24

25

26

27

28

1 **(S) OTHER ISSUES**

2 Defendant Geronimo Solorzano was served by plaintiff's counsel on
 3 October 21, 2015. Plaintiff contends that this is a nominal defendant that had no
 4 relationship with decedent at or near the time of his death. It is unknown at this
 5 time whether this defendant is represented by counsel. Plaintiff will be seeking
 6 Geronimo Solorzano's default. The parties do not currently contemplate any other
 7 procedural or evidentiary problems.

8
 9 Dated: December 3, 2015 THE OSBORNE LAW FIRM

10
 11 By: /s/
 12 Brian A. Osborne¹
 13 Attorney for Plaintiff
 14 Guadalupe Raya

15
 16 Dated: December 3, 2015 BERTLING & CLAUSEN, L.L.P.

17
 18 By: /s/
 19 Jemma Parker Saunders
 20 Attorneys for Defendant
 21 California Forensic Medical Group

22
 23 Dated: December 3, 2015 LAWRENCE BEACH ALLEN & CHOI, PC

24
 25 By: /s/
 26 Paul B. Beach
 27 James S. Eicher, Jr.
 28 Attorneys for Defendants
 County of Ventura and
 Ventura County Sheriff Geoff Dean

29
 30 ¹ As filer, I, Brian A. Osborne, attest that Jemma Parker Saunders and James S.
 Eicher, Jr., concur in the content of the Joint Rule 26 Report and have authorized
 its filing.